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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: JUUL LABS, INC., MARKETING,
SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

Case No. 19-md-02913-WHO

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT AND
PROPOSED AGENDA**

This Document Relates to:

ALL ACTIONS

Pursuant to Civil Local Rule 16-10(d) and the Court’s November 5, 2021 Minute Order (ECF No. 2282), counsel for Defendants Juul Labs, Inc. (“JLI”), Altria,¹ Director Defendants,² E-Liquid Defendants,³ Retailer Defendants,⁴ and Distributor Defendants⁵ (collectively “Defendants”), and Plaintiffs’ Co-Lead Counsel (“Plaintiffs”) (collectively referred to herein as

¹ “Altria” refers to Altria Group, Inc., and the Altria-affiliated entities named in Plaintiffs’ Consolidated Class Action Complaint and Consolidated Master Complaint (collectively, “Complaints”), *see* ECF Nos. 387, 388.

² “Director Defendants” refers to Messrs. James Monsees, Adam Bowen, Nicholas Pritzker, Hoyoung Huh, and Riaz Valani.

³ “E-Liquid Defendants” refers to Mother Murphy’s Labs, Inc., Alternative Ingredients, Inc., Tobacco Technology, Inc., and Eliquitech, Inc.

⁴ “Retailer Defendants” refers to Chevron Corporation, Circle K Stores, Inc., Speedway LLC, 7-Eleven, Inc., Walmart, and Walgreen Co.

⁵ “Distributor Defendants” refers to McLane Company, Inc., Eby-Brown Company, LLC, and Core-Mark Holding Company, Inc.

the “Parties”) respectfully provide this Joint Case Management Statement in advance of the Further Case Management Conference scheduled for December 6, 2021.

I. PARTICIPANT INFORMATION

The December 6, 2021 CMC will proceed by Zoom with certain attendees appearing in person. Anyone who wishes to attend the conference virtually must log in using the information available at: <https://www.cand.uscourts.gov/judges/orrick-william-h-who/>.

II. ISSUES TO BE DISCUSSED BELOW AND PROPOSED AGENDA

1. Status of Case Filings and Dismissals
2. Case Management Matters
3. Discovery Status
4. ADR Status

III. STATUS OF CASE FILINGS AND DISMISSALS

As of November 30, 2021, approximately 2,947⁶ cases are pending in this MDL, naming 109 defendants. A list of these defendants is attached as **Exhibit A**. To date, 2,429 personal injury cases and 462 government entity cases (including 414 school districts, 20 counties, 2 cities, and 26 tribes) have been filed in this MDL. 626 MDL plaintiffs have voluntarily dismissed their cases (600 personal injury plaintiffs and 24 class plaintiffs and 2 school districts); 270 cases have been dismissed without prejudice pursuant to CMO No. 8; and 24 other cases are subject to pending motions to dismiss without prejudice that have not yet been ruled upon. Furthermore, 180 case dismissals without prejudice have been converted to dismissals with prejudice pursuant to CMO No. 8.

There are 577 complaints pending in JCCP 5052, which is assigned to Judge David S. Cunningham of the Los Angeles Superior Court as the Coordination Trial Judge. There are 83 government entity cases, including 78 school districts, and 492 personal injury cases brought on behalf of over 3,200 individual personal injury plaintiffs. There are 26 defendants named in those JCCP cases.

⁶ The numbers in this Statement reflect the Parties’ good faith estimates based on reasonably available information. The Parties will continue to work together to align their data and resolve any inconsistencies.

1 The Parties are also aware of 14 pending cases filed by State Attorneys General
 2 specifically: California, Illinois, Hawai'i, New York, Louisiana, Mississippi, Minnesota,
 3 Washington D.C., Pennsylvania, New Mexico, Massachusetts, Colorado, Alaska and Washington.
 4 Plaintiffs' Liaison Counsel continue their outreach to various State Attorneys General to discuss
 5 cooperation with this MDL.

6 An update on matters of significance (including hearings, schedules, deadlines,
 7 depositions, substantive orders, and trial dates) in Related Actions as defined by the Joint
 8 Coordination Order (CMO 9, ECF No. 572 at 1, 3), is attached hereto as **Exhibit B**.

9 **IV. CASE MANAGEMENT MATTERS**

10 **A. Additional Trial Dates**

11 During last month's status conference, the Court offered the following dates for trials in
 12 2023: January 9, 2023; February 20, 2023; April 17, 2023; and June 12, 2023. Plaintiffs accept
 13 these dates and will meet and confer with Defendants regarding which cases should proceed on
 14 which dates.

15 **B. Trial Length and Mechanics**

16 Plaintiffs have raised with Defendants the issues of the estimated length of time for trial
 17 and witness trial availability and related procedures. Defendants are prepared to meet and confer
 18 regarding these issues. Plaintiffs anticipate raising this issue with the Court, to clarify which
 19 witnesses Defendants will make available and, if necessary, request a briefing schedule to resolve
 20 any disputes as to which witnesses can be compelled.

21 **C. Interim Trial Deadlines**

22 The parties continue to meet and confer regarding interim deadlines for the first personal
 23 injury bellwether trial. The parties have been discussing a proposal regarding the scope and
 24 timing of *Daubert* motions due to be filed on December 15, 2021, and anticipate raising it with
 25 the Court.

D. Defense Expert Report Supplementation

Defendants would like to discuss with the Court supplementation of a Defense expert report to address information and testimony from depositions of Plaintiffs' experts that occurred after Defendants' submission of their expert reports last month.

E. *Pesce* Summary Judgment and *Daubert* Deadlines

The parties anticipate submitting a joint stipulation moving the deadlines for filing *Daubert* and summary judgment motions in the *Pesce* bellwether case.

F. Plaintiff Fact Sheets and Bellwether Selection

The parties have been discussing potential revisions to the Plaintiff Fact Sheet process in the personal injury cases in order to provide more complete and accurate information for any future bellwether selection process. The parties will submit joint or competing proposals for bellwether selection procedures by January 7, 2022.

G. Government Entity Cases

In light of the Court's order setting the first government entity bellwether, San Francisco Unified School District, for trial on November 7, 2022, the parties have discussed an adjustment to the remaining pre-trial bellwether deadlines. The parties have exchanged proposals and are continuing to meet and confer regarding a revised schedule, and propose presenting to the Court either an agreed upon schedule or competing schedules by December 10, 2021. In the interim, the parties have agreed, and propose to the Court, extending the deadline for serving case-specific expert reports until January 7, 2022 and the deadline for serving case-specific rebuttal reports until February 18, 2022.

H. Tribal Cases Schedule

JLI and Plaintiffs in the tribal cases continue to meet and confer regarding the case schedule, and anticipate submitting competing letter briefs to the Court on December 10, 2021.

V. DISCOVERY STATUS

The MDL Plaintiffs are holding weekly calls with JCCP counsel regarding discovery, as detailed by the Joint Coordination Order (CMO No. 9, ECF No. 572) and the Deposition Protocol (CMO No. 10, ECF No. 573).

VI. ADR STATUS

Pursuant to Civil Local Rule 16-10(d), the Parties report that they continue to confer with Settlement Master Thomas J. Perrelli and cooperate with his recommendations.

Dated: December 2, 2021

Respectfully submitted,

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